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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/873,500

06/04/2001

John E. Ware

QMET-201

5112

24972 7590 01/22/2009
FULBRIGHT & JAWORSKI, LLP
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EXAMINER

LE, LINH GIANG

ART UNIT

PAPER NUMBER

3686

MAIL DATE

DELIVERY MODE

01/22/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09873500	6/4/2001	WARE ET AL.	QMET-201

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EXAMINER

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ART UNIT	PAPER
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Commissioner for Patents

The grounds of rejection inadvertently listed claims that were considered canceled. Claims 7, 11, 16, 24 and 28 were previously canceled and should not have been rejected.

Claims 1-6, 8-10, 12-15, 17, 35-38, 41-42, and 44 are rejected under 35 USC 101 as these claims are directed to non-statutory subject matter. A claimed process is patent eligible under 101 if: (1) it is tied to a particular machine or apparatus or (2) it transforms a particular article into a different state or thing. Independent claims 1 and 35 are directed towards a method of assessing the health status or health care of a patient. There is no tie to a machine or apparatus in the body of the claim nor is there a transformation of a particular article towards a different state or thing. Thus the claims are directed towards a patent-ineligible process under 35 USC 101. Furthermore, a nominal recitation in the preamble of structure in an otherwise ineligible method fails to make the process statutory.

Claims 1-6, 8-10, 12-15, 17-23, 25-27 and 29-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ware et al. (Ware, Jr., John E., Jakob Bjorner, and Mark Kosinski, Dynamic Health Assessments: The Search for More Practical and More Precise Outcomes Measures, The Quality of Life Newsletter, January 1999-April 1999), in view of Lewis (5,059,127).

/M. L./
Examiner, Art Unit 3686

/Jerry O'Connor/
SPE, GAU 3686